

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

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| UNITED STATES OF AMERICA, et al., |) | |
| <i>ex rel.</i> CALEB HERNANDEZ and JASON |) | |
| WHALEY, Relators |) | |
| |) | |
| Plaintiffs, |) | |
| |) | |
| v. |) | Case No. 2:16-cv-00432-JRG |
| |) | Chief Judge Rodney Gilstrap |
| TEAM HEALTH HOLDINGS INC., et al. |) | |
| |) | |
| |) | |
| Defendants. |) | |

**UNITED STATES’ UNOPPOSED MOTION FOR LEAVE
TO FILE STATEMENT OF INTEREST**

Pursuant to 28 U.S.C. § 517, authorizing the Department of Justice “to attend to the interests of the United States in” pending suits, the United States respectfully requests leave to file a Statement of Interest regarding certain issues raised in Defendants’ recent Motion for Summary Judgment (“Def. MSJ”) and Motion to Dismiss Relators’ Third Amended Complaint (“Def. MTD”). *See* Dkt. Nos. 172 (Def. MSJ filed under seal); 178 (Def. MSJ filed with redactions); 181 (Def. MTD filed under seal); 183 (Def. MTD filed with redactions).

Although the United States has not intervened in this action, it remains the real party in interest, entitled to share in any recovery that may be obtained. *See* 31 U.S.C. § 3730(d); *United States ex rel. Eisenstein v. City of N.Y.*, 556 U.S. 928, 934 (2009); *Searcy v. Philips Electronics N. Am. Corp.*, 117 F.3d 154, 156 (5th Cir. 1997). And, because the False Claims Act (“FCA”) is the United States’ primary civil tool for prosecuting fraud against the Government, the United States has a significant interest in how decisions by the courts, even in declined actions, may

shape future enforcement of the statute. Counsel for the United States has conferred with counsel for Relators and Defendants, neither of whom oppose this motion.

For these reasons, the United States requests that the Court grant its Motion for Leave to File the attached Statement of Interest to address certain issues under the FCA that were raised in Defendants' recent motions. A proposed order accompanies this Motion.

Dated: October 9, 2020

Respectfully submitted,

JEFFREY BOSSERT CLARK
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United States Attorney

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**ATTORNEYS FOR THE
UNITED STATES OF AMERICA**

LOCAL RULE CV-7 CERTIFICATE OF CONFERENCE

Pursuant to Local Rule CV-7, I certify that I conferred with counsel for the Relators on October 6, 2020, who indicated that Relators are not opposed to the requested relief. October 7, 2020, I also conferred by with counsel for Defendants, who similarly indicated that they are not opposed to the requested relief.

/s/ James Gillingham
JAMES GILLINGHAM

CERTIFICATE OF SERVICE

I hereby certify on this 9th day of October 2020, I caused a true and accurate copy of the foregoing to be filed using the Court's CM/ECF system, which will send an electronic notice of filing to all counsel of record.

/s/ James G. Gillingham
JAMES G. GILLINGHAM
Assistant U.S. Attorney